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v. *Meyer*, 10 Fed. 241 (Cir. Ct., N. Y.). In New York and Illinois the contrary view has prevailed, in the one state, because the local statute refers only to "transactions affecting personal property," *Brick v. Gannar*, 36 Hun, 52; and in the other because the contract was regarded as "continuing," and so beyond the statute's provisions. *Blackburn v. Mann*, 85 Ill. 222. The distinction drawn in the principal case, therefore, does not seem to be justifiable.

PART PERFORMANCE OF A PAROL CONTRACT TO CONVEY LAND.—It is a general rule of equity that, in order to take a parol contract for the conveyance of land out of the Statute of Frauds, there must be such a part performance by the plaintiff as to make it a fraud upon him if the contract be not enforced. If adequate compensation can be had in money damages, he is left to his action of quasi-contract. Yet, where the plaintiff has altered his position in such a way that no pecuniary payment can make up for the loss incurred, equity will decree specific performance, on the ground that it will not suffer the Statute of Frauds to be made an instrument of injustice. Although the mere payment of the purchase-money, therefore, is insufficient, if the purchaser has taken possession in pursuance of the oral agreement, the seller can be compelled to grant a conveyance of the property on the ground that otherwise the plaintiff would suffer an irreparable injury.

Whether the same rule should ever be applied where the performance has been the giving of personal services is a question of some difficulty. In a late case the defendant's intestate, while suffering from an offensive disease, made an oral agreement to convey land to the plaintiff in consideration of care during the rest of his life. The plaintiff, who had duly performed her part of the contract, obtained a decree for specific performance. *Lothrop v. Marble*, 81 N. W. Rep. 885 (S. D.). This decision is in accord with the doctrine generally accepted in America. *Rhodes v. Rhodes*, 3 Sandf. Ch. 279; *Davison v. Davison*, 13 N. J. Eq. 246. The English rule is that specific performance will be decreed only where the act of part performance is of such a nature as to point exclusively to a contract like that set up; hence personal services are not sufficient, for they might have been rendered equally well in the expectation of pecuniary reward. *Maddison v. Alderson*, 8 App. Cas. 467. Although this distinction seems unsatisfactory, the English view is supportable on the broader ground that such services may in fact be adequately compensated in money damages. Where a prospective purchaser has entered into possession of land, not only has he acquired a sentimental interest in the property itself, but he has also made various expenditures for the enjoyment of his ownership, many of which are of no value to the defendant. The plaintiff is a loser, therefore, unless he can obtain specific performance; for it is the gain of the defendant, and not the plaintiff's outlay, which is the basis of an action of quasi-contract. In the matter of nursing an invalid, however, the defendant has received the benefit of all the sacrifice and expenditure of the plaintiff, and thus the full amount can be recovered in quasi-contract. The granting of this form of equitable relief against the Statute of Frauds, being in the nature of judicial legislation, should not be extended beyond the bounds of strict necessity. The wisdom of the American view, therefore, in regard to contracts of personal service, may well be questioned.